

UNITED STATES COURT OF APPEALS

SEP 26 2001

FOR THE TENTH CIRCUIT

PATRICK FISHER
Clerk

ABDUL AZIZ,

Plaintiff-Appellant,

v.

UNIVERSITY OF COLORADO,

Defendant-Appellee.

No. 01-1105
(D.C. No. 97-B-1748)
(D. Colo.)

ORDER AND JUDGMENT *

Before **EBEL** , **KELLY** , and **LUCERO** , Circuit Judges.

Appellant Abdul Aziz, appearing pro se, moves for leave to proceed on appeal in forma pauperis so that he may challenge the district court's dismissal under Fed. R. Civ. P. 12(b)(6) of this discrimination suit. This court has considered and decided the issue on appeal on two prior occasions. See Aziz v. Univ. of Colo. , No. 00-1262, 2001 WL 184122 (10th Cir. Feb. 26, 2001); Aziz v.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The Court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Univ. of Colo., No. 98-1466, 1999 WL 308565 (10th Cir. May 17, 1999). Under the doctrine of res judicata, a final judgment on the merits of an action precludes the parties or their privies from re-litigating issues that were or could have been raised in a prior action. Smith v. Plati, 258 F.3d 1167, 1179 (10th Cir. 2001) (citing Cromwell v. County of Sac, 94 U.S. 351, 352–53 (1876)). Thus, appellant's current challenge is barred.

Appellant's motion for leave to proceed in forma pauperis is **DENIED**, and the judgment of the district court is **AFFIRMED**. The mandate shall issue forthwith.

Entered for the Court

Carlos F. Lucero
Circuit Judge